



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/872,376 | 06/01/2001 | Mitchell T. Berg | 29820.10 | 2812 |

7590

12/08/2005

Seed Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98105

| EXAMINER |
|----------|
|----------|

DAVIS, CYNTHIA L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2665

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/872,376

Applicant(s)

BERG, MITCHELL T.

Examiner

Cynthia L. Davis

Art Unit

2665

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): The 35 USC 112 1st rejections of claims 2, 12, 22, 23, 25, 29, 30, 32, 34, and 35, and the 35 USC 103a rejections of claims 28 and 31.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: 2, 12, 22, 23, 25, 28-32, 34 and 35.
Claim(s) rejected: 1, 5, 8-11, 15, 18-21, 24, 26, 27, 33 and 36-40.
Claim(s) withdrawn from consideration: 3, 4, 6, 7, 13, 14, 16 and 17.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached response to arguments.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 7 and 8
13. ☐ Other: _____


HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Response to Arguments

1. Applicant's arguments filed 11/1/2005 have been fully considered but they are not persuasive.

Regarding claims 1, 11, and 33, the purpose of the foreign agent (figure 2B, element 10) is to pass information to and from the PC (element 16). This would involve sending packets to and from the PC. Regarding the motivation to combine Leung with Flynn, Leung shows a connection between element R1 and element 206, while Flynn shows that that connection could be a LAN. The router would be able to route packets via the LAN of Flynn to element 206 if that was where the packet needed to go.

Regarding claim 37, the signal-bearing medium recited in the claim is the first computing device cited in the rejection (Leung, figure 2B, element 16). The computing device recited in the claim is the second computing device cited in the rejection (Leung, figure 2B, element 206). The claim is essentially identical to claim 1.

Regarding claims 21 and 27, Brendel shows in figure 19, elements 140 and 146, two routers that a computing device can use to route packets to a global network. This teaches the claim limitation. Further, the having a second router to share the outgoing traffic and balance the load on the first router is a valid motivation.

Regarding claim 26, the Leung reference clearly shows outputting the second information packet directly to the global computer network is disclosed in figure 2B, element 16 (the PC can communicate directly with the global network via the foreign agent).

Allowable Subject Matter

Art Unit: 2665

2. Claims 2, 12, 22, 23, 25, 28, 29-32, 34, and 35 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.